

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 3/12/2024

In re:

03-MD-01570 (GBD)(SN)

TERRORIST ATTACKS ON
SEPTEMBER 11, 2001

ORDER

-----X

SARAH NETBURN, United States Magistrate Judge:

This document relates to:

Burnett, et al. v. Al Baraka Inv. & Dev. Corp., et al., No. 03-cv-09849

Plaintiffs in Burnett, et al. v. Al Baraka Inv. & Dev. Corp., et al., No. 03-cv-09849 (the “Burnett Plaintiffs”), move to amend their complaint under Federal Rule of Civil Procedure 15 to add plaintiffs who seek to assert claims against the Taliban. ECF No. 9629.¹

A party may amend its complaint before trial “with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). Leave to amend should be “freely” given “when justice so requires,” *id.*—and indeed, permitting amendment “is the ‘usual practice,’” Bank v. Gohealth, LLC, No. 21-cv-1287, 2022 WL 1132503, at *1 (2d Cir. Apr. 18, 2022) (quoting Hayden v. Cnty. of Nassau, 180 F.3d 42, 53 (2d Cir. 1999)). Courts exercise their discretion to withhold leave, however, where there is an “apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment, etc.” Foman v. Davis, 371 U.S. 178, 182 (1962); see McCarthy v. Dun & Bradstreet Corp., 482 F.3d 184, 200 (2d Cir. 2007).

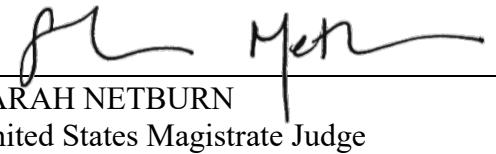
¹ Unless otherwise noted, all ECF numbers refer to the main MDL docket, No. 03-md-01570.

These claims are not futile, will not unduly delay these proceedings or prejudice the Taliban, and were not filed in bad faith or with a dilatory motive. The Burnett Plaintiffs' motion is therefore GRANTED, and it is further ORDERED that:

- The underlying complaint in Burnett, No. 03-cv-09849, is amended to include the three parties identified in the Burnett Plaintiffs' exhibit at ECF No. 9631-1 as parties in the action against the Taliban;
- These amendments supplement, but do not displace, the underlying operative complaint in Burnett, No. 03-cv-09849;
- Prior rulings, orders, and judgments entered in this case remain in effect as to all parties; and
- Further service on the Taliban is not required as a result of these amendments, and prior service orders apply, including the Court's orders on service by publication at ECF Nos. 445, 488.

The Clerk of Court is respectfully directed to terminate the motion at ECF No. 9629 and the related motion at ECF No. 1140 in Burnett, No. 03-cv-09849.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: March 12, 2024
New York, New York